



Georgia Department of Community Health

Drug Free Workplace	Policy No. 415
Effective Date: April 1, 2000	Page <u>1</u> of <u>6</u>

- References:**
1. Federal Drug-free Work Place Act (US Code: Title 41, Ch. 10, §701 - 707)
 2. Schedules of Controlled Substances (US Code: Title 21, Section 812)
 3. Georgia Drug-Free Public Work Force Act (O.C.G.A. §45-23-1 through 9)
 4. Rules of the State Personnel Board - Rule 26

I. Purpose

The purpose of this policy is to promote and provide for a drug free workplace.

II. Scope

This policy applies to all employees of the Department of Community Health (DCH) and the attached agencies.

III. Policy

In accordance with the **Federal Drug-free Work Place Act** and the **Georgia Drug-free Public Work Force Act**, it is the policy of the Department of Community Health to maintain a drug-free work place. The Department will make a good faith effort to ensure that a drug-free work place is maintained and will continue a drug-free awareness program.

IV. General Provisions

- A. Substance abuse significantly impacts the work place and is a serious threat to public health, safety, and welfare. There is potential danger to clients, patients, customers, or other employees of the Department, as well as liability for the Department. In addition, substance abuse often has detrimental effects on employees' attendance and quality of work, as well as on their personal lives.
- B. Based on the above and as a condition of employment, DCH employees are to be free of illegal drugs while in the work place or performing assigned duties. (This includes all time in official travel status.) Employees are required to be free of alcohol and are prohibited from possessing or consuming alcohol while in the work place or performing assigned duties. Employees are also to be free of legal drugs or other substances, which potentially impact the performance of assigned duties.



NOTE: Employees taking medication, which could affect job performance or behavior should notify their supervisor. A determination regarding ability to perform job duties will be made on a case by case basis by the supervisor or other authorized official.

V. Reporting Drug-Related Arrests & Convictions

- A. Employees are **required** to notify their supervisors and/or other authorized officials of any criminal drug arrests or convictions within FIVE (5) CALENDAR DAYS of the date of occurrence. A determination of appropriate action will be made on a case-by-case basis by the supervisor and/or other authorized official after consultation with the Office of Human Resources.
- B. Employees who fail to report criminal drug arrests or convictions are subject to disciplinary action, up to and including separation from employment.
- C. Information regarding arrests and/or convictions is confidential and should be shared only on a "need to know" basis.

VI. Federal Drug-Free Work Place Act

- A. The Federal Drug-free Work Place Act of 1988 requires that employees be notified that engaging in the **unlawful/illegal** manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place or while performing assigned duties.

NOTE: Controlled substances are identified in the US Code: Title 21, Section 812.

- B. Selected applicants or employees who have not previously signed a document containing this information are to sign a copy of the *DRUG-FREE WORK PLACE NOTICE*. (See Attachment #1) The signed notices are to be maintained in employees' official personnel files. Employees who engage in unlawful/illegal drug-related activity are subject to disciplinary action, up to and including separation from employment.
- C. **Violations In The Work Place**
 - 1. Any conviction for a drug-related offense that occurred **in the work place** must be immediately reported to the appropriate Division/Office Director through lines of authority.



NOTE: "Conviction" means a finding of guilt (including a plea of *nolo contendere*) or imposition of a sentence by any judicial body.

2. The Division/Office Director or designee is to immediately contact the Director of Human Resources to discuss appropriate action.
3. The Federal grantor must be notified of any convictions for drug-related offenses committed in **the work place** by employees who work in program areas funded by Federal grants or contracts. This notification must be provided within **10 calendar days** of becoming aware of the conviction.
4. Within **30 calendar days** of becoming aware of a conviction that must be reported to a Federal grantor, the following must occur:
 - a. Appropriate disciplinary action *must* be taken against the employee, up to and including separation from employment.
 - b. If the employee remains employed, the employee must *be* required to satisfactorily participate in an approved drug abuse treatment and education program.

D. Employee Assistance

Employees are encouraged to seek assistance for drug-related problems. Employees should contact their supervisors or human resource/personnel offices for available drug counseling, rehabilitation or employee assistance programs.

VII. Georgia Drug-Free Public Work Force Act

- A. The Georgia Drug-free Public Work Force Act was passed in 1990. This Act declares that illegal drug activity is a serious threat to public health, safety and welfare. The Georgia General Assembly has, therefore, declared that the public work force must be free of any person who would knowingly commit criminal drug offenses.

B. Criminal Drug Offenses

The following guidelines have been established by the Department of Community Health as the **minimum** sanctions to be imposed on applicants and employees convicted of a criminal drug offense(s).

NOTE: For purposes of the Georgia Drug-free Public Work Force Act, "conviction" does not include treatment under the Georgia First Offender Act or a plea of *nolo contendere*.



1. **Sanctions For Applicants**

- a. Any person convicted of a criminal drug offense for the first time is ineligible for employment with **DCH** for a minimum of **two** years from the date of conviction.
- b. Any person convicted of a second or subsequent criminal drug offense (since July 1, 1990) is ineligible for employment with **State government, including DCH**, for a period of **five** years from the most recent date of conviction.

2. **Sanctions For Employees**

- a. When official notification or relevant documentation is received which shows that an employee has been convicted of a criminal drug offense for the first time, the employee may be immediately separated from employment if it is determined appropriate.
- b. If it is determined that an employee convicted of a criminal drug offense for the first time will be retained, **at a minimum**, the employee must be immediately suspended without pay, effective the date of notice.

NOTE: Prior to suspension without pay, an employee may be directed to drug testing due to reasonable suspicion. Each situation should be reviewed on a case-by-case basis.

- (1) The suspension without pay must be for a period of at least two months or until a drug abuse treatment and education program has been successfully completed, whichever is longer.

NOTE: While on suspension without pay, the employee cannot be employed by any State employer.

- (2) The employee must successfully complete an approved drug abuse treatment and education program at the employee's expense and submit certification of the successful completion.
- (3) Employees who do not successfully complete the required drug abuse treatment and education program are to be immediately separated from employment.



- c. When official notification or relevant documentation is received that shows that an employee has been convicted for the second or subsequent criminal drug offense (since July 1, 1990), the employee must be separated from employment if it has been fewer than five (5) years since the most recent date of conviction.

- (1) The separation must be immediate, effective the date of notice.
- (2) The employee must also be disqualified from any State employment for a period of five (5) years from the most recent date of conviction.

3. Appeal

- a. **Classified** employees may appeal either a suspension without pay or a separation from employment to the State Personnel Board. Any appeal must be filed with the Office of State Administrative Hearings within 10 calendar days of receipt of the notice of adverse action, or the effective date of the action, whichever is later.
- b. **Unclassified** employees are at-will employees, and cannot appeal a suspension without pay or a separation from employment.

C. Personal Use of Illegal Drugs

1. Notification

Employees who notify their supervisor (or other authorized officials if the supervisor is unavailable) of personal use of illegal drugs will not be separated from employment solely on the basis of the admitted drug use for up to one (1) year if the following conditions are met.

- a. The notification of illegal drug use must be submitted in writing to the supervisor or other authorized official **prior** to an arrest for a criminal drug offense and **prior** to being notified of required drug testing.
- b. The notification must indicate that the employee is receiving or agrees to receive treatment under an approved drug abuse treatment and education program **at the employee's expense**.
- c. The employee must provide to the supervisor or other authorized official monthly documentation from the treatment provider, which shows that the employee's attendance and progress in the treatment plan are satisfactory.



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2. **Family Leave**

Since treatment for substance abuse is considered a serious health condition, any absence from work to participate in a drug abuse treatment and education program will be charged to available family leave.

3. **Other Provisions**

- a. The opportunity to maintain employment while in treatment is available to each employee only once in a 5-year period.
- b. While participating in a drug abuse treatment and education program, employees' work duties may be modified if practical to protect persons or property.
- c. Statements made by employees to supervisors or other authorized officials to comply with this policy are not admissible as evidence against them in any civil, administrative or criminal proceeding.
- d. Employees who notify their supervisor (or other authorized officials if the supervisor is unavailable) of personal use of an illegal drug(s), will not be protected from the mandatory sanctions that must be imposed if convicted of an illegal drug offense.

For additional information or assistance, please contact the Office of Human Resources Office at 404/656-4374.

Attachment:

- 1. Drug-Free Work Place Notice

Approved by:

Date:

4-3-00

Department of Community Health

DRUG-FREE WORK PLACE NOTICE

It is the policy of the Department of Community Health (DCH) to provide a drug-free work place. Illegal drug use significantly impacts the work place and is a serious threat to public health, safety and welfare. DCH employees are **prohibited** from engaging in the **unlawful/illegal** manufacture, distribution, dispensation, possession or use of a controlled substance in the work place or while performing assigned duties. Employees are **required** to notify their supervisors and/or other authorized officials of **any** criminal arrests or convictions within 5 calendar days of the occurrence. Violations of the above may result in disciplinary actions, up to and including termination from employment.

As a condition of employment, while in the work place, in official travel status or performing assigned duties, employees are:

- required to be free of illegal drugs;
- prohibited from abusive use of legal drugs or other substances, which create the potential for significant risk of harm to themselves or others;
- prohibited from using someone else's prescription drugs since it is against the law;
- prohibited from possessing or consuming alcohol.

Any DCH employee may be required to submit to alcohol and/or drug testing due to reasonable suspicion.

Drug testing is conducted for the presence of the following illegal drugs:

- marijuana/cannabinoids (THC)
- cocaine
- amphetamines/methamphetamines
- phencyclidine (PCP)
- opiates

Alcohol Testing and Results

Employees who refuse to submit to alcohol testing when directed **will be immediately terminated** from employment. Employees whose test shows the presence of alcohol are subject to disciplinary action, up to and including termination from employment. In addition, employees who are separated may be ineligible for future employment with DCH for a period of 2 years. A determination of appropriate action regarding alcohol testing will be made on a case by case basis.

Drug Testing and Results

DCH employees who refuse to submit to drug testing when directed, or whose test result indicates the use of illegal drug(s), **will be immediately terminated** from employment and **will not be eligible** for future employment with DCH for a period of 2 years.

Persons currently employed with State government outside of DCH, who refuse pre-employment drug testing, or whose test result indicates the use of an illegal drug(s), will not be employed by the Department and **will not be eligible** for future employment with DCH for a period of 2 years.

Applicants not currently employed with State government, who refuse pre-employment drug testing, or whose test result indicates the use of an illegal drug(s), will not be employed by the Department and will not be eligible for any State employment for a period of 2 years.

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Employee Assistance

DCH is willing to assist employees with alcohol and/or drug-related problems. Employees must advise their supervisors or other authorized officials in writing of the need for assistance prior to being notified of required testing and prior to being arrested for a criminal drug offense. Employees may also seek assistance with alcohol and/or drug-related problems through their health insurance providers or health maintenance organizations.

ACKNOWLEDGEMENT

I understand that I must abide by the conditions outlined in this notice. I will notify my supervisor, other authorized official or the Office of Human Resources of any criminal drug arrest or conviction within 5 calendar days of the arrest or conviction. I realize that federal law may require that my employer communicate conviction information to a Federal agency.

I also understand that I am to be free of alcohol and illegal drugs in the work place or while performing assigned duties.

Applicant/Employee's Name (Please Print) _____

Applicant/Employee's Signature _____ Date _____